

ORDINANCE NO. 04 - 071

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 2-80.21 THROUGH 2-80.34 OF THE PALM BEACH COUNTY CODE, WHICH CODIFIED ORDINANCE NO. 2002-064, THE ORDINANCE WHICH ESTABLISHED THE SMALL BUSINESS ENTERPRISE PROGRAM; PROVIDING FOR DEFINITIONS; PROVIDING DECERTIFICATION CRITERIA; CORRECTING SCRIVENER'S ERRORS; MODIFYING THE MEMBERSHIP OF THE SMALL BUSINESS ADVISORY COMMITTEE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the policy of Palm Beach County that all businesses be afforded an opportunity for full participation in our free enterprise system; and

WHEREAS, in order to implement this policy, the County is committed to ensuring full and equitable participation by small business enterprises in the provision of goods and services to the County; and

WHEREAS, on October 1, 2002, Palm Beach County implemented a Small Business Enterprise Program; and

WHEREAS, during the operation of the SBE Program, it was noted that certain changes were needed to the ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Sections 2-80.21 through 2-80.34 of the Palm Beach County Code are hereby amended as follows:

SECTION 1. DEFINITIONS:

The definitions of *Domiciled in Palm Beach County* and *Small Business* contained in Section 2-80.21 are hereby amended to read as follows:

A. *Adjusted Gross Margin* means total revenue less cost of materials, product and subcontractors, excluding cost of any leased employees.

B. *Domiciled in Palm Beach County* means the business holds a valid Palm Beach County occupational license and has a permanent place of business in Palm Beach County. In order to establish a permanent place of business in Palm Beach County, the business must: 1) demonstrate business activity in Palm Beach County and/or document that at least 10% of the business' gross receipts during the preceding twelve (12) months were generated from the Palm Beach County location; 2) the Palm Beach County

1 occupational license bears the Palm Beach County address; 3) the Palm Beach County
2 location must be verifiable through documentation such as lease agreement, utility bills,
3 client invoices, payroll records or other appropriate documentation, and; 4) the Palm Beach
4 County location must be identifiable through signage, telephone book listing, or other
5 appropriate means. On site visits may be conducted prior to and during the certification
6 term to determine continued adherence to the domicile requirements. Additional backup
7 documentation may be requested on a case-by-case basis. A Palm Beach County
8 telephone number or Post Office Box in Palm Beach County shall not be sufficient to
9 establish domicile in Palm Beach County.

10 C. *Small business* means a business domiciled in Palm Beach County and certified
11 by Palm Beach County which is an independently owned and operated business concern
12 organized to engage in commercial transactions and whose adjusted gross margin does
13 not exceed the following:

- 14 1. For a provider of construction the annual adjusted gross margin may
15 not exceed \$3,000,000 (averaged over the previous three (3) years
16 or if in business, less than three (3) years, averaged during duration
17 of business).
- 18 2. A supplier of commodities the annual adjusted gross margin may not
19 exceed \$1,500,000 (averaged over the previous three (3) years or if
20 in business, less than three (3) years, averaged during duration of
21 business).
- 22 3. For a supplier of professional services the annual adjusted gross
23 margin may not exceed \$2,000,000 (averaged over the previous
24 three (3) years or if in business, less than three (3) years, averaged
25 during duration of business).

26 **SECTION 2. SMALL BUSINESS RECERTIFICATION:**

27 Section 2-80.30(h) of the Palm Beach County Code is amended to read as follows:

28 h. *Recertification:* Certified SBEs are required to submit an affidavit of their
29 continued eligibility as a SBE every three (3) years. The Office of Small Business
30 Assistance may conduct site visits or review documents to ensure continued compliance

1 as a small business. If there has been a change in operation, ownership, control, activities,
2 domicile or adjusted gross margin the SBE must notify the Office of Small Business
3 Assistance within thirty (30) days of the change. Supporting documentation may be
4 required for continued certification. A company that fails to submit its affidavit of continued
5 eligibility or fails to submit documentation requested by the Office of Small Business
6 Assistance will no longer be deemed certified for purposes of participation in the small
7 business program.

8 The criteria for recertification shall be the same as for certification. An applicant may
9 request an appeal of denial of recertification within fifteen (15) days of receipt of notice of
10 denial. The hearing shall be conducted in the manner described in Section 2-80.30(g).

11 An applicant denied recertification may not reapply for certification for one hundred
12 twenty (120) days from the denial of recertification.

13 **SECTION 3. SMALL BUSINESS DECERTIFICATION:**

14 Section 2-80.30(i) of the Palm Beach County Code is hereby amended to read as
15 follows:

16 i. *Decertification:* If during the period of certification the County has reason to
17 believe or receives written information that the SBE received certification improperly or
18 that there has been such a substantial change in circumstances in the operation,
19 ownership, control, activities, domicile or adjusted gross margin that continued
20 certification would be contrary to the County's small business policy, then the Office of
21 Small Business Assistance shall conduct an investigation of the allegations.

22 The Office of Small Business Assistance shall decertify the SBE if the investigation
23 indicates that:

- 24 1. The small business cannot be contacted at the last known Palm Beach
25 County address;
- 26 2. The small business is no longer in business;
- 27 3. The small business is no longer licensed to do the type of business for
28 which it was certified;
- 29 4. The small business obtained its original certification and/or recertification
30 through false representation or deceit;

1 5. The small business has been disbarred or suspended as a vendor by the
2 County Purchasing Department. At the expiration of any suspension, the firm may reapply
3 for certification; or

4 6. Site visits have revealed no business being conducted at the Palm Beach
5 County location.

6 The director of the Office of Small Business Assistance shall notify the small
7 business by certified mail that decertification is recommended. The small business may
8 request an appeal hearing of the decertification within fifteen (15) days of receipt of the
9 notice. The hearing shall be conducted in the manner described in Section 2-80.30(g) .
10 Nothing in this section shall prevent the Office of Small Business Assistance from
11 commencing an investigation regarding the legitimacy of a small business certification
12 based upon information received independent of a third party written request. A business
13 decertified pursuant to this Section may not re-apply for certification for one hundred -
14 twenty (120) days from the date of decertification.

15 **SECTION 4. SMALL BUSINESS ASSISTANCE ADVISORY COMMITTEE:**

16 Section 2-80.32(1)(i) of the Palm Beach County Code is hereby amended to read
17 as follows:

- 18 (i) One (1) representative of a women's business organization;

19 **SECTION 5. REPEAL OF LAWS IN CONFLICT:**

20 All local laws and ordinances in conflict with any provisions of this Ordinance are
21 hereby repealed to the extent of such conflict.

22 **SECTION 6. SEVERABILITY:**

23 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for
24 any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall
25 not affect the remainder of this Ordinance.

26 **SECTION 7. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

27 The provisions of this Ordinance shall become and be made a part of the Code of
28 Laws and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may
29 be renumbered or relettered to accomplish such, and the word "ordinance" may be
30 changed to "section", "article", or other appropriate word.

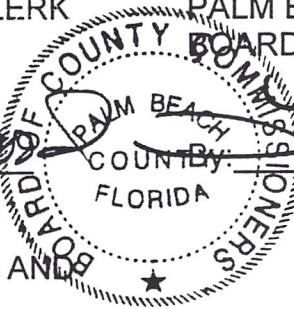
1 **SECTION 8. EFFECTIVE DATE:**

2 The provisions of this Ordinance shall become effective upon filing with the
3 Department of State.

4 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
5 County, Florida, on this the 21 day of December, 2004.

6 DOROTHY H. WILKEN, CLERK PALM BEACH COUNTY, FLORIDA, BY ITS
7 BOARD OF COUNTY COMMISSIONERS

8
9 By: Donna S. Atwood
10 Deputy Clerk



By: Tony Masiotti
Tony Masiotti, Chairman

11 APPROVED AS TO FORM AND
12 LEGAL SUFFICIENCY

13 By: Tammy H
14 County Attorney

15 EFFECTIVE DATE: Filed with the Department of State on the 29 day of Dec.,
16 2004.

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STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk and Comptroller
certify this to be a true and correct copy of the original
filed in my office on December 21, 2004
dated at West Palm Beach, FL on 2/24/05
By: Diane Brown
Deputy Clerk